

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DAVID DOUGLAS)	
Claimant)	
VS.)	
)	Docket No. 198,868
METRO CONSTRUCTION)	
Respondent)	
AND)	
)	
WORKERS COMPENSATION FUND)	

ORDER

Respondent and claimant appeal from a December 24, 1996, Award entered by Administrative Law Judge Bruce E. Moore.

APPEARANCES

Claimant appeared by his attorney, John M. Ostrowski of Topeka, Kansas. Respondent appeared by its attorney, Scott M. Price of Salina, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, Norman R. Kelly of Salina, Kansas.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Award.

ISSUES

- (1) Whether claimant suffered personal injury by accident on the date alleged.
- (2) Whether claimant's alleged accident arose out of and in the course of his employment with the respondent.

(3) Liability of the Workers Compensation Fund.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record and having considered the briefs of the parties, the Appeals Board finds that the Award entered by the Administrative Law Judge should be affirmed.

The findings of fact and conclusions of law as enumerated in the Award by the Administrative Law Judge are found to be accurate and appropriate and are hereby adopted by the Appeals Board as its own as if specifically set forth herein. The Appeals Board agrees that claimant has sustained his burden of proof that his shoulder and neck injuries were the result of the February 3, 1995, accident at work, as he described.

The Appeals Board further finds that the record does not establish that respondent is insolvent or otherwise financially unable to pay the compensation award. Accordingly, at this time, the Workers Compensation Fund has no liability for this award.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore dated December 24, 1996, should be, and the same is hereby, affirmed in all respects. The orders contained in the Award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of April 1997.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: John M. Ostrowski, Topeka, KS
Scott M. Price, Salina, KS
Norman R. Kelly, Salina, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director